

554 Briault, an accurate observer of the Fang states that the death of  
 578 a chief, or an old man, or a notable person, is suspect and demands a much more "minute" enquiry than in the case of men of the common people." "Whoever has privileges is envied, whoever exerts authority makes malcontents; many chiefs have died unexpectedly; many who were envied have not made old bones; this must be fairly common since it is confirmed by proverbs (2). . . ."

2. M. Briault, Sur les pistes de  
l'A.E.F. [On the Trails of French  
 Equatorial Africa], 1948, pp. 37-  
 38, 42-43.

One might say that "intentional death" threatens (threatened rather, for colonial affairs and peace have allowed some to grow rich and to be protected) those who in their own interest disregard the fundamental solidarity and leveling tendency.

631 [140] By this play of forces, more or less antagonistic and varying according to circumstances, Fang society is protected from any excessive concentration of power. This explains why, in spite of its conquering military nature, it has never allowed even a rudimentary feudal system to appear. Strictly controlled, power was organized only at the level of small units — a village or a group of villages, relatives or neighbors. It has only exceptionally (and precariously) gone beyond the frontiers of these groupings, and as the "associations" have barely been able to remedy this deficiency, Fang society shows an absolute lack of centralization, which was a contributing factor in its rapid deterioration during the colonial period.

692 In a social system which leaves plenty of room for opposing relationships, cases of judicial action and conciliation play an important part. The Fang have not only established a classification of offenses — nté, simple disagreement; étôm, serious dispute that might result in war; and nsém, ritual infraction —  
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 [681] and a gradation of punishments going up to holding a hostage (étéa), but have also conceived a judicial organization with

- 692 "arbiters" and a "jury" that has set various methods of establishing proof (including several methods of ordeal). L. Mba, in a still unpublished study, (1) points out the existence of a

1. Last part of Essai de Droit Coutumier  
Pahouin [Essay on Pahouin Common Law],  
in Rapport de la Commission Enquête  
Historique, Libreville, 1949.

"family tribunal" — of minor lineage — with the ntòl as peacemaker assisted by one or two members of the grouping for dealing with purely internal affairs. He also indicates the existence of a "tribunal" of major lineage that intervenes in conflicts between two or several nd'è bôt, this constituting in principle) a court of appeal, consisting of a judge (who is not necessarily the "chief" of the lineage but any peacemaker who has shown his ability) before whom the representatives of the groupings involved appear. He also points out the existence of a similarly constituted clan "tribunal," which has the same functions at the level of larger

[693] groupings and also has the role of a court of appeal. Let us add that the jury (bétolö) is not selected, outside of (blood) relatives and relatives by marriage, until the day the "tribunal" meets. These are only general indications. They show, however, that it is not so much a question of organizations with a judicial function as of principles [141] assuring the regulation of infractions and conflicts by a way other than violence. The status of "judge" 693  
554 does not exist with the definiteness we will find when studying the Ba-kongo; instead it displays the same weaknesses as those of the "chief's" situation. The latter may be the judge for the lineage and the clan, but he will often find himself supplanted by a true "master of palaver." In this connection ability and personal prestige are dominant to such an extent that recourse is possible to judges of foreign clans, especially in criminal matters.

692 In the matter of judiciary organization as in that of the chefferie, it appears that the framework of kinship groupings lend itself very little to a centralization of power, either political

692 or judicial. We have sufficiently stressed the diffuse character of the latter. On the other hand, certain "associations" show an organization (which is often effective outside the clan) that fills (or attempts to do so) a compensating function. This is true of the Ngil, whose role of pacification and justice extends beyond clan limits — and in spite of these limits.

#### 6. The Associations

769 We have frequently pointed out the rather loose nature of  
794 the bonds which exist between even close fragments of a clan. In Gabon, because of the extreme dispersal and entanglement of the divers fragments, the "periodic gatherings" disappeared very early. No mention is made of them by early authors, except for a vague one by Father Trilles. However, these gatherings (ésulan) have been kept up in the Cameroons with the purpose of reminding the members of their solidarity and having them show it by "helping one another in kind, with money, and with days of work." (1)

#### 1. Tradition des Yénžòk [Tradition of the Yénžòk], Archives of Ebolowa, The Cameroons.

These bonds, however, are found to be tightened at the time of the initiation of young men to the Bièri cult when the society of grown men is also strengthened. Bièri, while borrowed, according to H. Trilles, "in its form from neighboring nations" yet "remaining basically Fang," is a cult rendered to the spirits of the ancestors through the agency of their skulls. It necessitates for every nd'è bòt an altar set up in the hut of the eldest, or very near it. [142] It requires sacrifices (regular and circumstantial), and it has to be consulted before every important action.

This cult confirms the continuity of the line and reveals periodically the profound unity which constitutes the continuation of the generations — at the time of sacrifices of food, the food is first "consumed" by the Bièri, then eaten by the secluded initiates (mvoma bièri) assembled in the guardhouse. It imposes a large

b. Legal Power

698 The contemporary /legal/ organization is, except for a few details, the same in the three territories inhabited by the Pahouin. In the Cameroons and Gabon, criminal law /la justice repressive/ is in the hands of magistrates administering the French penal code; civil law is administered by first- and second-degree courts presided over by an official of administrative rank, sitting with two African assessors. There are also the so-called customary courts composed entirely of Africans and not entitled to deal with questions of personal status /état des personnes/, and a mediation system preliminary to all court action, in the jurisdiction either of chiefs or of first-degree court assessors. The system in Spanish territory is similar, but the first jurisdiction of the penal law is entrusted to officers called jefes de demarcación.

Alongside this official framework may often be noted a semi-official mechanism, sometimes tolerated, sometimes prosecuted as illegal. This consists of courts or arbitrators of the ngôl, of the bwiti or of the meyon, and also disciplinary committees of the missions, official or semi-official.

671 The distinction between civil and criminal was undoubtedly less sharp in former times. It did, however, exist, and an organization like the ngil dealt primarily with criminal cases, the major crime from which all others arose being that of ngbwel, sorcery. A homicide /meurtre/ might be a civil matter, when the circumstances precluded the probability of an act of sorcery; a well-planned theft, on the other hand, or even outstanding commercial acumen, could involve a capital charge.

627 Outside the ngil, law was administered in the first instance by the esa or ntol mot of the extended family or the village. This was a matter of disciplinary rather than legal power, at least so long as the ntôl's decisions concerned only his bobenyân. When the case (étom)

628 went beyond a purely family framework, recourse was had to a judge, ntyi'i mejô, palaver-cutter, chosen within the clan from a kinship level nearer the ancestor. If several allied clans were involved, arbitrators or assessors were taken from among the mintôl not directly concerned in the suit. Finally, a diviner or magician, mvimvi'i or [741] ngengen, could be consulted, either visited in his own dwelling or into consultation.

[575] Suits between members of an association were, and often still are, conducted by an official of the association /71/.

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their subdivision is the goal of 37 percent of travelers. The motives indicated vary greatly: people go there for reasons connected with their jobs (1.3%), for medical care (2%), to attend to matrimonial affairs (9.5%), to visit relatives (10.5%), merely for their own pleasure (23%), to attend to business connected with the public services (civil status /*état civil*/, law, various public departments, in 45% of the cases). There is no need to underline the importance of contacts with the administration. So in the Cameroons it has been thought necessary to decentralize the administrative machinery further and to place it within reach of the people. The establishment of new subdivisions within the Yaoundé region and of administrative posts in Boulou country demonstrate this attitude. All this takes place as if the Pahouin, in vague resentment /131/ against the inadequacies of their traditional organization, were trying to replace them with new and foreign institutions.

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In order to prevent the population from totally committing its fate into the hands of the European organization and thereafter refusing to make any personal effort at improving their condition, the French administration has attempted, at the same time as it distributed authority throughout the country, to remove concentration at the center. Though it was beneficial to multiply the agents of the central power in contact with the population, it was even more necessary to give the people or their representatives the opportunity to manage public services and to organize the collective life.

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Civil law was, therefore, largely decentralized. In addition to the first- and second-degree courts at which subdivision or regional heads /*chefs de...*—the implication here is of French colonial officials.—Tr. / made decisions based on custom, assisted by African assessors, there were created a great many "customary" courts whose judges were not officials. In the majority of cases, chiefs were thus appointed as presidents of customary courts, with prominent men and secretaries to help them. The number of cases dealt with allows us to believe that the reform has been beneficial. Though the nature of the suits has no bearing on the local government organization, it should, nevertheless, be mentioned for the light it throws on the points of friction that exist between individuals.

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In the Cameroons the distribution was as follows: divorces, 38 percent; liberation of widows, 6 percent; adultery, 9 percent; real property rights, 17 percent. These represent the principal disputes; the probable maladjustment of matrimonial institutions provides the main portion.